IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8059 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgement? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GULABSINH S BARAIYA

Versus

G S R T C

Appearance:

MR NITIN N PANDYA for the Petitioner.

MR HS MUNSHAW for Respondent No. 1-2

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 19/06/2002

ORAL JUDGEMENT

The petitioner has challenged the Award passed by the Industrial Tribunal, Ahmedabad, dated 13.7.1993. By the impugned Award, the complaint of the petitioner is rejected by the Industrial Tribunal.

It is the case of the petitioner before the

Industrial Tribunal that he was appointed as a Conductor in the S.T. Corporation since 1969 and he had sent resignation on 19.2.1993. Subsequently, he requested the S.T. Corporation to allow him to withdraw his resignation, but since the Corporation did not accept the said request, he raised the aforesaid Industrial Dispute and he filed complaint, being (I.T.) No.30 of 1993 in Reference (I.T.) No. 548 of 1993. The case of the workman before the Industrial Tribunal was that he was suffering from depression and, therefore, he resigned. But, subsequently, he realised that in view of the resignation, his services will come to an end and, therefore, subsequently, he addressed a letter on 6.3.1993 to the Divisional Manager, requesting to allow him to withdraw the resignation.

The stand of the Corporation before the Industrial Tribunal was that the petitioner had voluntarily tendered his resignation and the same was accepted and, therefore, it was not open for the workman to withdraw his resignation subsequent to its acceptance. In the application, it was stated by the petitioner-workman that the order of the S.T. Corporation is illegal and contrary to Section 33-A of the Industrial Disputes Act. The Tribunal, after considering the evidence on record, came to the conclusion that the resignation was not withdrawn by the employee before the same was accepted by the Corporation. The Industrial Tribunal also relied upon various decisions of the Apex Court in paragraph 6 of the order (page 18 of the compilation). The Tribunal came to the conclusion that the theory of sickness is got up subsequently as the same is not mentioned even in the letter of resignation. The Court also came to the conclusion that the resignation is accepted on 1.3.1993 by the Department. Considering the facts and circumstances of the case, therefore, the Labour Court came to the conclusion that there is no substance in the complaint. It is found that since the resignation is given voluntarily, there is no breach of Section 33 of the Industrial Disputes Act. The Tribunal, accordingly, rejected the said complaint. Considering the reasoning given by the Labour court, it cannot be said that the Tribunal has committed any error of law or of jurisdiction. In my view, no interference of this Court is called for in a petition, which is filed under Article 227 of the Constitution of India. It cannot be said that the Tribunal has committed any error of law or of jurisdiction, which requires interference of this Court in its extraordinary jurisdiction. I do not find any substance in this petition and it is held that the order

of the Tribunal is in accordance with law and is not required to be interfered with. The petition is accordingly devoid of any merit and the same is accordingly dismissed. Rule is discharged with no order as to costs.

19th June, 2002 (P.B. Majmudar, J.)

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(apj)